



**BJA** Bureau of  
Justice Assistance



# HUMAN TRAFFICKING

## A State Perspective



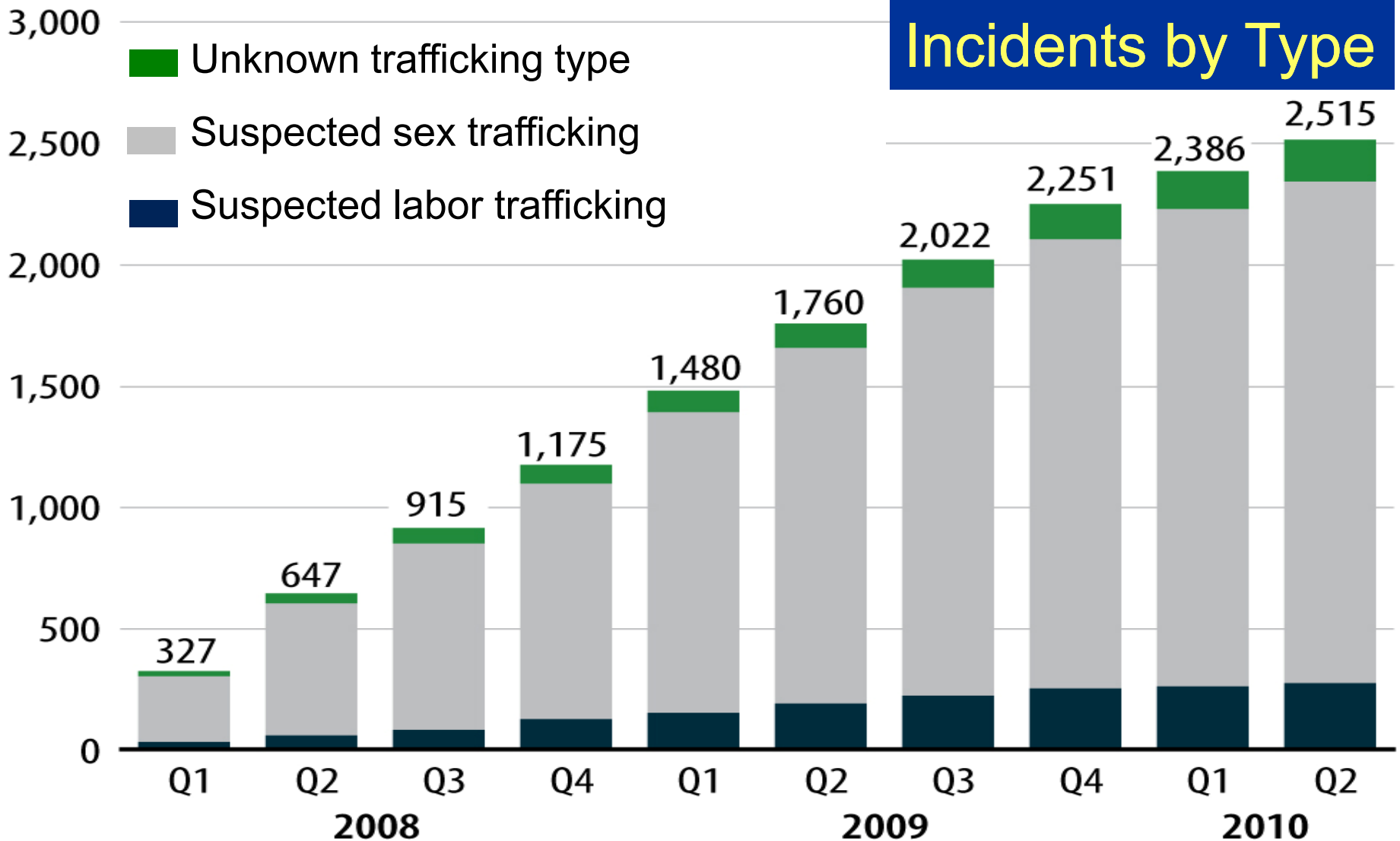
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# Overview

- 2012 ILO Report estimates 20.9 million victims at any time world-wide;
- World-wide 7,206 (508) prosecutions; 4,239 (320) convictions 41,210 victims identified. DOJ prosecuted 42 cases.
- 55% are women/girls
- Last year, in U.S., federal government charged 118 defendants of trafficking violations.
- The estimates for the US are from 14,500 victims to up to 60,000

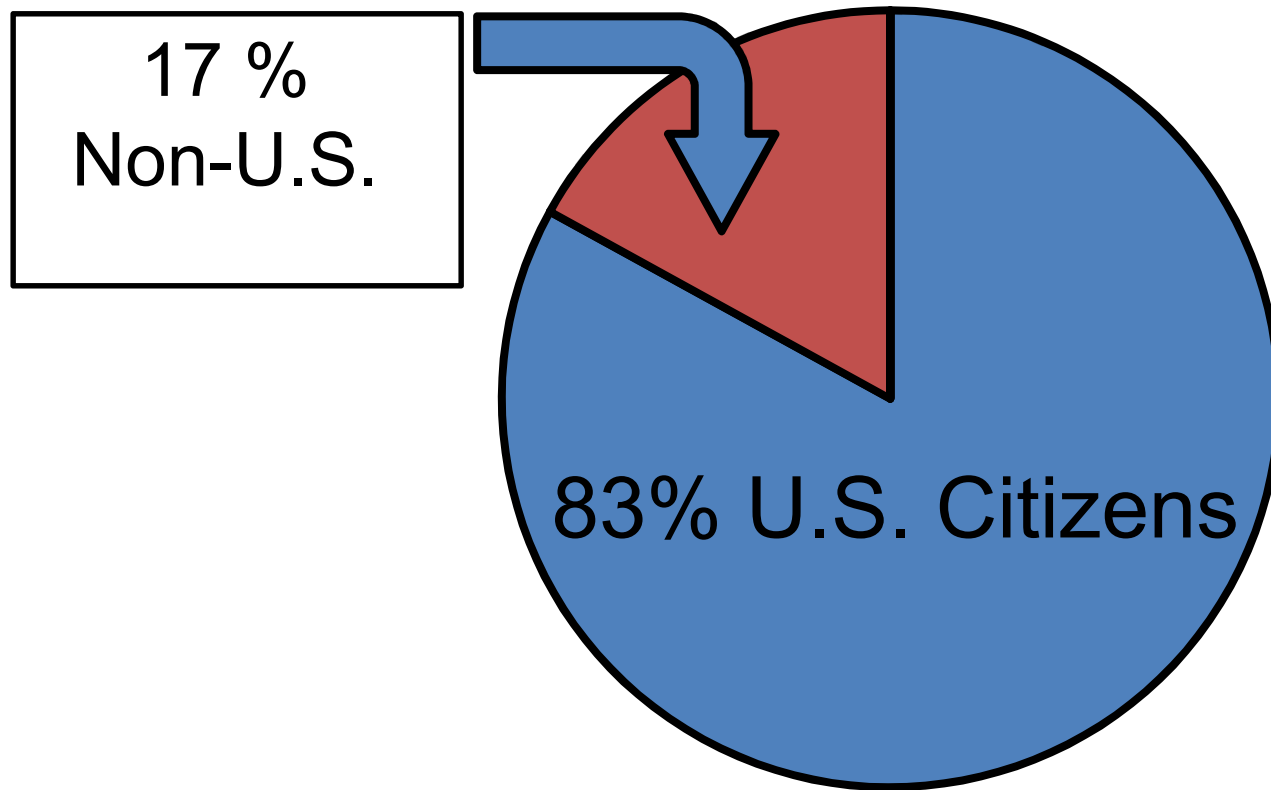


## Number of incidents opened for investigation

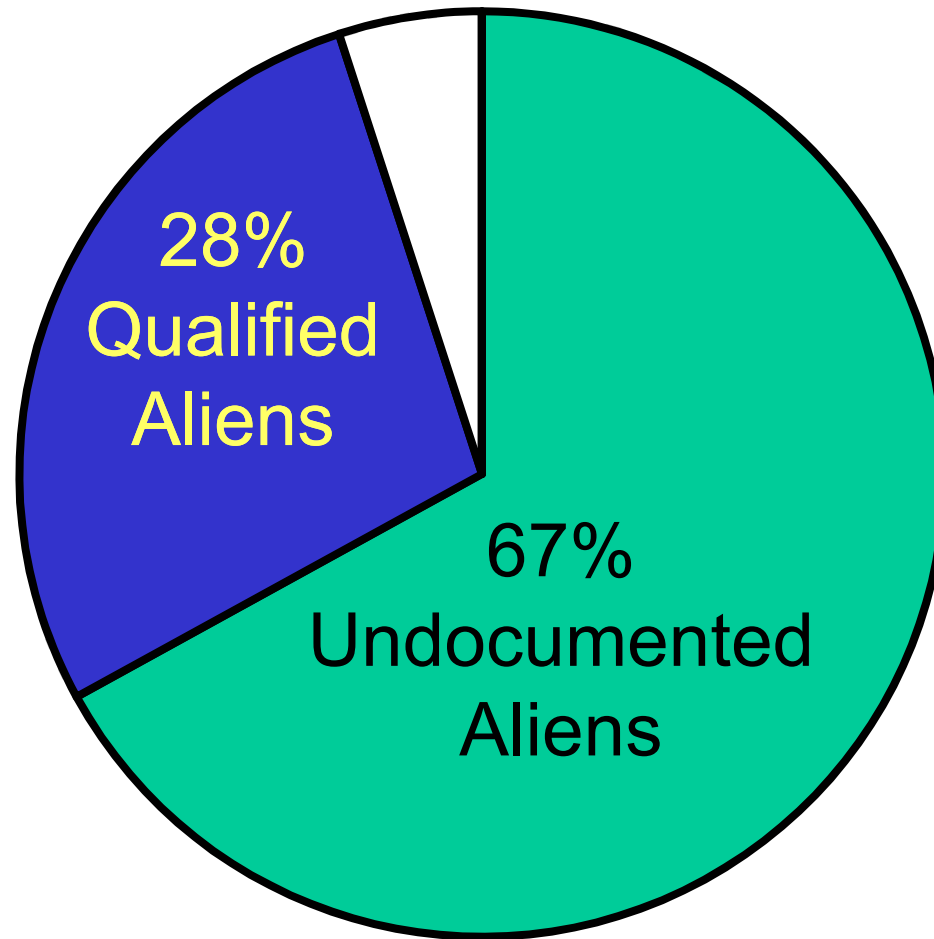


**B.J.S. # of HT  
Incidents by Type**

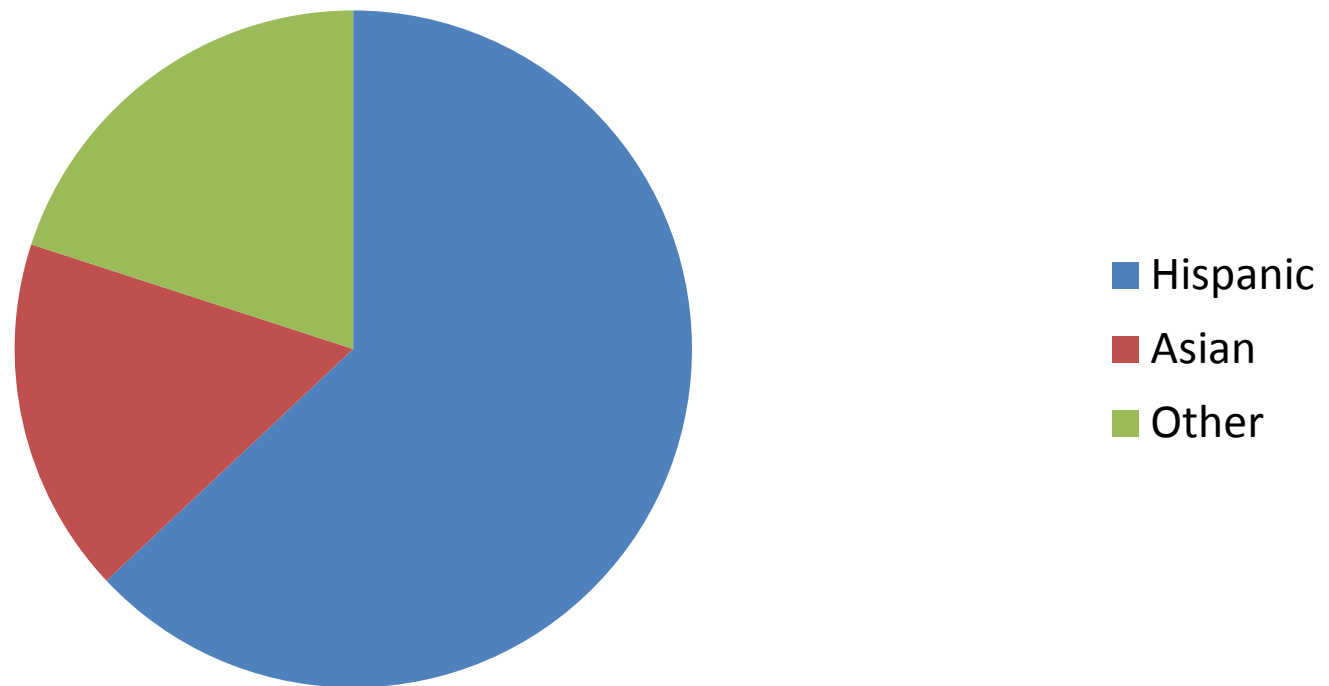
## B.J.S. – Sex Trafficking Victims



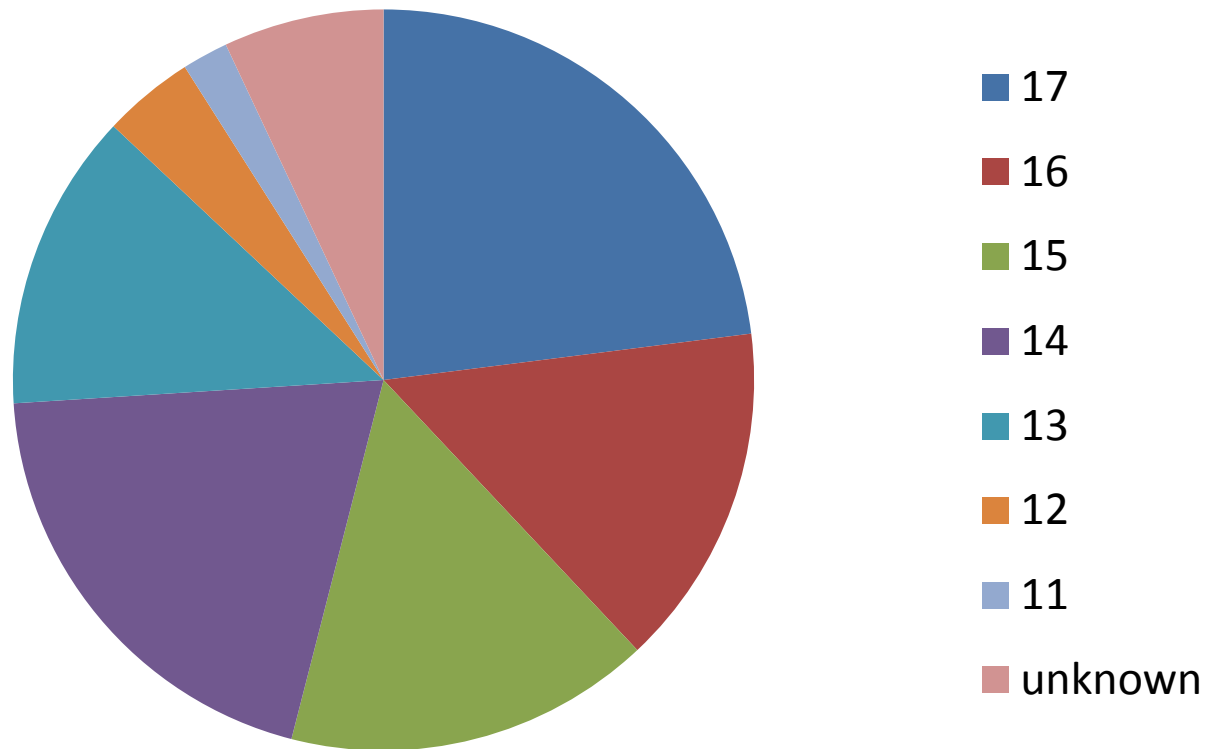
## B.J.S. – Labor Trafficking Victims



# Ethnicities of Labor Trafficking Victims



## Average Age of Entering Into Prostitution in the United States



# Comparison: Average Cost of Slave





# Difference Between Smuggling/Trafficking

## Smuggling

- Crime against the public interest in regulating non-citizens
- Person moved is complicit
- Generally, a one-time interaction
- Focus is on transportation

## Trafficking

- Crime is against human/civil rights of victim
- Initial consent of victim to migrate is not determinative
- Person is held for service by coercion, usually over time
- Focus is on denial of liberty





# Trafficking Indicators

- Is the victim in possession of identification or travel documents; if not, who has control of the documents?
- Was the victim coached on what to say to L.E. and immigration officials?
- Was the victim recruited for one purpose and forced to engage in some other job?
- Is the victim's salary being garnished to pay off a smuggling fee? (Paying off a smuggling fee alone is not considered trafficking.)
- Was the victim forced to perform sexual acts?
- Does the Victim have freedom of movement?
- Has the victim or a family been threatened with harm if the victim attempts to escape?
- Has the victim been threatened with deportation or law enforcement action?
- Has the victim been harmed or deprived of food, water, sleep, medical care or other life necessities?
- Can the victim freely contact friends or family?
- Is the victim a juvenile engaged in commercial sex?
- Is the victim allowed to socialize or attend religious services?



# Major Forms of Human Trafficking

- Forced labor
- Sex trafficking
- Bonded labor
- Debt bondage among migrant laborers
- Involuntary domestic servitude





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# Types of Work Subject to Trafficking

- Exotic dancing
- Agricultural work
- Landscape work
- Domestic work/child care
- Factory Work
- Commercial cleaning
- Begging/street peddling
- Restaurant work
- Construction work
- Hotel housekeeping
- Day labor
- “Mom” and “Pop” stores



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# ALABAMA STATE LAW HUMAN TRAFFICKING



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# Definitions under §13A-6-151

(1) **COERCION.** Any of the following:

- a. Causing or threatening to cause physical injury or mental suffering to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer physical injury or mental suffering.
- b. Implementing any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in physical injury, mental suffering, or physical restraint of any person.
- c. Destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's or any person's actual or purported government records, immigration documents, identifying information, or personal or real property.
- d. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal prosecution, criminal or immigration proceedings, hatred, contempt, or ridicule.
- e. Threatening to report the person or another person to immigration officials or to other law enforcement officials or otherwise blackmailing or extorting the person or another person.
- f. Controlling a person's access to a controlled substance, as the term is defined in Section 20-2-2.
- g. Rape or sodomy or threatened rape or sodomy of any person, as defined in Title 13A.



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# Definitions under §13A-6-151

(2) **DECEPTION.** Any of the following:

- a. Creating or confirming an impression of any existing fact or past event which is false and which the accused knows or believes to be false.
- b. Exerting financial control over the person or another person by placing the person or another person under the actor's control as a security or payment of a debt, if the value of the services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or the principal amount of the debt does not reasonably reflect the value of the items or services for which debt was incurred or by preventing a person from acquiring information pertinent to the disposition of the debt, referenced in this paragraph.
- c. Promising benefits or the performance of services which the accused does not intend to be delivered. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this article.
- d. Using any scheme, plan, or pattern, whether overt or subtle, intended to cause any person to believe that, if the person did not perform such labor, services, acts, or performances, the person or another person would suffer physical injury or mental suffering.

(3) **LABOR SERVITUDE.** Work or service of economic or financial value which is performed or provided by another person and is induced or obtained by coercion or deception.

(4) **MENTAL SUFFERING.** A high degree of mental pain or emotional disturbances, such as distress, anxiety, public humiliation, or psychosomatic physical symptoms. It is more than mere disappointment, anger, resentment, wounded pride, or embarrassment and must be a direct result of the crime of human trafficking.



# Definitions under §13A-6-151

(5) **MINOR.** A person under the age of 18.

(6) **PHYSICAL INJURY.** Impairment of physical condition or substantial pain.

(7) **SEXUAL SERVITUDE.** Any of the following:

a. Any sexual conduct as defined in subdivision (3) of Section 14-11-30, for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception from a person.

b. Sexual conduct includes:

1. Sexually explicit performances, meaning an act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, videotaped, or projected over the Internet.

2. Commercial sex acts, meaning any sex act on account of which anything of value is given, promised to, or received, directly or indirectly, by any person.

3. Acts defined in subdivision (3) of Section 14-11-30.

(8) **TRAFFICKING VICTIM.** Any person, including minors, subjected to labor servitude, sexual servitude, or involuntary servitude.



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## § 13A-6-152. Human trafficking in the first degree.

(a) A person commits the crime of human trafficking in the first degree if:

(1) He or she knowingly subjects another person to labor servitude or sexual servitude through use of coercion or deception.

(2) He or she knowingly obtains, recruits, entices, solicits, induces, threatens, isolates, harbors, holds, restrains, transports, provides, or maintains any minor for the purpose of causing a minor to engage in sexual servitude.

(3) For purposes of this section, it is not required that the defendant have knowledge of a minor victim's age, nor is reasonable mistake of age a defense to liability under this section.

(4) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the first degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.

(5) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class C felony.

(b) Human trafficking in the first degree is a Class A felony.



## § 13A-6-153. Human trafficking in the second degree.

(a) A person commits the crime of human trafficking in the second degree if:

- (1) A person knowingly benefits, financially or by receiving anything of value, from participation in a venture or engagement for the purpose of sexual servitude or labor servitude.
- (2) A person knowingly recruits, entices, solicits, induces, harbors, transports, holds, restrains, provides, maintains, subjects, or obtains by any means another person for the purpose of labor servitude or sexual servitude.
- (3) A corporation, or any other legal entity other than an individual, may be prosecuted for human trafficking in the second degree for an act or omission only if an agent of the corporation or entity performs the conduct which is an element of the crime while acting within the scope of his or her office or employment and on behalf of the corporation or entity, and the commission of the crime was either authorized, requested, commanded, performed, or within the scope of the person's employment on behalf of the corporation or entity or constituted a pattern of conduct that an agent of the corporation or entity knew or should have known was occurring.
- (4) Any person who obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section shall be guilty of a Class A misdemeanor.



## § 13A-6-154. Evidence of certain facts or conditions not deemed a defense.

Evidence of the following facts or conditions shall not constitute a defense in a prosecution for human trafficking in the first or second degree, nor shall the evidence preclude a finding of a violation:

- (1) A human trafficking victim's sexual history or history of commercial sexual activity.
- (2) A human trafficking victim's connection by blood or marriage to a defendant in the case or to anyone involved in the victim's trafficking.
- (3) Consent of or permission by a victim of human trafficking or anyone else on the victim's behalf to any commercial sex act or sexually explicit performance.
- (4) Age of consent to sex, an act defined by paragraph b. of subdivision (7) of Section 13A-6-151 of the definition for sexual servitude, legal age of marriage, or other discretionary age.
- (5) Mistake as to the human trafficking victim's age, even if the mistake is reasonable.



## § 13A-6-155. Mandatory restitution.

(a) A person or entity convicted of any violation of this article shall be ordered to pay mandatory restitution to the victim, prosecutorial, or law enforcement entity, with the proceeds from property forfeited under Section 13A-6-156 applied first to payment of restitution. Restitution under this section shall include items covered under Article 4A, commencing with Section 15-18-65 of Chapter 18 of Title 15, and any of the following:

- (1) Costs of medical and psychological treatment, including physical and occupational therapy and rehabilitation, at the court's discretion.
- (2) Costs of necessary transportation, temporary housing, and child care, at the court's discretion.
- (3) Cost of the investigation and prosecution, attorney's fees, and other court-related costs such as victim advocate fees.
- (4) The greater of a. the value of the human trafficking victim's labor as guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act; or b. the gross income or value to the defendant of the victim's labor servitude or sexual servitude engaged in by the victim while in the human trafficking situation.
- (5) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair.
- (6) Expenses incurred by a victim and any household members or other family members in relocating away from the defendant or his or her associates, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim.
- (7) Any and all other losses suffered by the victim as a result of any violation of this article.

(b) For purposes of this section, the return of the victim to his or her home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving restitution.



## **§ 13A-6-156. Forfeiture of profits or proceeds and interest in property.**

A person who commits the offense of human trafficking in the first degree or human trafficking in the second degree shall forfeit to the State of Alabama any profits or proceeds and any interest in property that he or she has acquired or maintained that the sentencing court determines to have been acquired or maintained as a result of committing human trafficking in the first degree or human trafficking in the second degree. Any assets seized shall first be used to pay restitution to trafficking victims and subsequently to pay any damages awarded to victims in a civil action. Any remaining assets shall go toward the cost of the investigation and prosecution and the remaining assets shall be remitted to funding the Alabama Crime Victims Compensation Fund.



## **§ 13A-6-157. Civil action by victim; relief awarded.**

An individual who is a victim of human trafficking may bring a civil action in the appropriate state court. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and any other appropriate relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble (triple) damages shall be awarded on proof of actual damages where defendant's acts were willful and malicious.



## § 13A-6-158. Limitation period.

(a)(1) An action for an offense defined by this article where the victim is not a minor shall be brought within five years from the date the victim was removed or escaped from the human trafficking situation.

(2) Any statute of limitations that would otherwise preclude prosecution for an offense involving the trafficking of a minor, or the physical or sexual abuse of a minor, shall be tolled until such time as the victim has reached the age of 18 years.

(3) The running of the statute of limitations shall be suspended where a person entitled to bring a claim of an offense defined by this article could not have reasonably discovered the crime due to circumstances resulting from the human trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(b) Any statute of limitation period imposed for the filing of a civil action under this article will not begin to run until the plaintiff discovers both that the sex trade act occurred and that the defendant caused, was responsible for, or profited from the sex trade act.

(1) If the plaintiff is a minor, then the limitation period will not commence running until he or she has reached the age of majority.

(2) If the plaintiff is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him or her to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(3) If the plaintiff's injury is caused by two or more acts that are part of a continuing series of sex trade acts by the same defendant, then the limitation period will not commence running until the last sex trade act in the continuing series occurs.

(4) If the plaintiff is subject to threats, intimidation, manipulation, or fraud perpetrated by the defendant or by any person acting in the interest of the defendant, then the time when these acts occur will not be part of the time limited for the commencement of this action.



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## **§ 13A-6-159. Affirmative defense.**

In a prosecution for prostitution, or a sexually explicit performance defined in this article, of a human trafficking victim for the victim's illegal acts engaged in or performed as a result of labor servitude or sexual servitude, it shall be an affirmative defense that the person was a victim of human trafficking.





**§ 13A-6-160. Concurrent prosecuting authority;  
separate offenses.**

(a) District attorneys and the Attorney General shall have concurrent authority to prosecute any criminal cases arising under this article and to perform any duty that necessarily appertains to this section.

(b) Each violation under this article shall constitute a separate offense.



# What is NOT Trafficking in U.S.

- Illegal adoptions
- Trade in human organs
- Child pornography
- All prostitution



# Security Issues

- Court house security issues and continued threats to victims are similar to those found in organized crime and domestic violence investigations and prosecutions



# How Domestic Victims Are Recruited

- Girls/boys and women/men who are already prostitutes
- Teens with low self-esteem often lured by traffickers who give them attention and praise
- Lifestyle promises: clothing, money, exciting life
- Romantic relationship with trafficker
- Physical/sexual assault
- Addiction to drugs and/or alcohol
- Escape/Runaways from violent home environment



# Recruitment Schemes International Victims

- Economic opportunities
- Educational opportunities
- Marriage fraud



# Why Do Victims Stay?

- Stigma as “damaged goods”
- Religious/cultural beliefs
- Threats to family in home country or to children
- Ongoing physical threats and assaults to victim or others
- Continued isolation
- Alcohol/drug addiction



# Why Do Victims Stay?

- Threats of deportation
- Document confiscation
- Debt Bondage
- Pregnancy/threat over child custody
- Lack of housing
- Fear of being charged with a crime
- Losing only support structure one has



# Why Do Victims Stay?

- Family in home country receiving some money from traffickers
- Victim has become desensitized
- Victim has become completely hopeless, feeling there is no way out
- Victim stays to survive
- Romantic relationship w/trafficker
- Trauma bonding/Stockholm syndrome





# Protecting Victims

- Sometimes difficult to determine if an individual is a victim or a trafficker
- Victims should not be housed close to site(s) of trafficking experience
- Victims should not be housed together
- Victims often uncooperative/hostile
- Victims will return to “the life”
- Victims often do not consider themselves victims
- Services for domestic child victims difficult to find



# Dealing with Victim Trauma

Trauma will cause a victim to:

Avoid thoughts, feelings, or conversation

Avoid activities, places, or people

Be unable to recall situations

Express diminished interest or participation

Feel detached or estranged

Feel complete hopelessness as to future



# Impact on Case

- Distrust of law enforcement/caregivers
- Emotional contact/dependence on trafficker
- Provide multiple versions of incident(s)
- Manipulative, pitting caregivers/law enforcement against one another
- Professional health service may be needed



# Other Issues with Victims

- Deportation fears
- Desire to protect family back home
- Victims wish to protect relationship with trafficker
- Shame
- Lack of support for victims and their children
- Re-traumatization



# Who Are the Traffickers?

- Can be men, women, even children
- May be former HT victims
- May be members of a trafficking network, including people performing roles such as recruiters, transporters, groomers, security, enforcers, and financiers
- May be a single individual

